

D.P.U. 95-86

Investigation by the Department on its own motion, pursuant to G.L. c. 164, § 76, into the response of Western Massachusetts Electric Company to the Storm of July 15, 1995.

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 COMPANY

TABLE OF CONTENTS

I.	INTRODUCTION	1
A.	Procedural History	1
B.	The July 15, 1995 Storm	3
C.	Prior Investigations Into Storm Related Outages	4
II.	PRE-STORM PREPARATIONS: THE COMPANY'S EMERGENCY PLAN	5
A.	Coordination of Training with Local and State Officials	6
B.	Tree Trimming Policies and Procedures	7
C.	Storm Watch and Evaluation	8
D.	Personnel Assignments for Emergencies	9
E.	Line Trucks	10
F.	Materials and Stores	11
G.	Electrical Distribution System Readiness	12
H.	Prioritization of Restoration Activities	13
I.	Periodic Review and Evaluation of Emergency Procedures	16
1.	Reevaluation	16
2.	Solicitation of Comments and Suggestions	17
3.	Annual Storm Simulations	19
4.	Examination of Other Electric Companies' Emergency Plans	20
J.	Conclusions Regarding the Company's Emergency Plan	20
III.	COMPANY'S IMPLEMENTATION OF THE EMERGENCY PLAN	23
A.	Introduction	23
B.	Staffing in Response to the Storm	25
1.	Description	26
2.	Analysis and Findings	29
C.	Line Trucks and Materials	34
1.	Description	34
2.	Analysis and Findings	35
D.	Communications	37
1.	Introduction	37
2.	Communications Into the Company: Storm Damage Assessment	37
a.	Description	37
b.	Analysis and Findings	39
3.	Communications To Local Officials and the Public	42
a.	Description	42
b.	Analysis and Findings	43
E.	Coordination of Response with NYNEX	44
F.	Prioritization and Coordination of Response with Local Towns	45
1.	Description	45
2.	Analysis and Findings	47
G.	Conclusions Regarding the Company's Implementation of its Emergency Plan...	49

IV.	PROPOSED RELOCATION OF CUSTOMER SERVICE CENTER.....	51
V.	QUALITY OF SERVICE PLAN.....	53
VI.	REMEDIAL ACTION.....	53
	A. Summary of Customer and Municipal Comments.....	53
	B. Analysis and Findings.....	55
VII.	ORDER.....	59

I. INTRODUCTION

A. Procedural History

On July 24, 1995, the House of Representatives ("House") adopted House No. 5331, an Order requesting that the Department of Public Utilities ("Department") conduct an investigation of the Western Massachusetts Electric Company ("WMECo" or "Company")¹ response to the severe storm in western Massachusetts ("Storm") that caused widespread damage to the WMECo service territory on Saturday, July 15, 1995. The House requested that the Department investigate WMECo's "compliance with the provisions of law and orders, directions and requirements involving the safety and convenience of the customers who suffered economic hardship as a result of the appearance of an unreasonable lapse of time in restoring electric service."

Acting under the provisions of G.L. c. 25, § 4, and G.L. c. 164, § 76, the Commission appointed Department staff to investigate the response of WMECo to the Storm.² The

¹ The Company is a wholly-owned subsidiary of Northeast Utilities ("NU") of Hartford, Connecticut, a public utility holding company. WMECo and three other wholly-owned subsidiaries, Holyoke Water Power Company, Connecticut Light and Power Company, and Public Service Company of New Hampshire, furnish electric service in western Massachusetts, Connecticut, and New Hampshire, respectively. WMECo is engaged in the generation, transmission, and distribution of electric power to serve during 1994, on average 193,187 customers in its service territory, which includes over 50 cities and towns in western Massachusetts.

² The Department "ha[s] the general supervision of all gas and electric companies" G.L. c. 164, § 76. It is required to "make all necessary examination and inquiries and keep itself informed as to the condition of the respective properties owned by such corporations and the manner in which they are conducted with reference to the safety and convenience of the public, and as to their compliance with the provisions of law and the orders, directions and requirements of the [D]epartment." *Id.* The Supreme Judicial Court has held that the Department possesses "broad investigative authority over electric utilities and may properly inquire into ... the efficiency of [a regulated utility's] operations and the productivity of all its employees, both management and
(continued...)"

investigation was docketed as D.P.U. 95-86. The Department conducted three public hearings to allow legislators, other government officials, and the public to express their concerns to the Department. The first public hearing was held on August 2, 1995 in Amherst; the second was held on August 16, 1995 in Pittsfield; and the third was held on August 28, 1995 in Otis, Massachusetts. At these hearings, state legislators, municipal officials, WMECo customers, union workers, and Company representatives testified under oath, filed letters, or commented regarding the Company's response to the outage. A representative of the Attorney General's Office attended each hearing. In addition to information obtained during the public hearings, the Department has received 87 letters from customers regarding the Storm outage. Further, the Company has responded to 113 information requests issued by the Department. The Department, on its own motion, hereby moves all sworn testimony and Company responses to information requests into evidence. The Department also takes into account the letters that WMECo customers have submitted.

This Order presents the results of the Department investigation into WMECo's actions in regard to the Storm. Section II of this Order presents an assessment of major features of the Company's emergency planning process and Emergency Plan. Section III addresses issues that arose with the Company's implementation of its Emergency Plan and other problems that were encountered in responding to the Storm. Section IV addresses issues pertaining to customer damage claims.

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nonmanagement." Boston Edison Company v. Department of Public Utilities, 375 Mass. 1, 43, 44 (1978).

B. The July 15, 1995 Storm

According to WMECo, the Storm was the result of what meteorologists call a mesoscale convective complex (August 2, 1995 testimony of Robert G. Abair, vice president and chief administrative officer of Western Massachusetts Electric Company at 3, citing meteorologists from the New England Weather Service). These storms form only at night, usually along a warm front or within a very hot air mass (id.). In this instance, the frontal boundary was far to the north of Western Massachusetts, where the storm was expected to remain (id.). However, because the complex was so huge, smaller storms were feeding off each other; and there was a weak surface trough for these storms to move southeast into western Massachusetts (id.). These storms formed what is called a gust front (a front with little rain, just a quick, powerful burst of wind) that moved across western Massachusetts and Connecticut (id.).

On July 17, 1995, the Company reported to the Department's Consumer Division that all 59 towns serviced by WMECo had power outages because of the Storm (Exh. DPU 1-38, Att. at 1). The Company reported that 80 miles of downed wires and 850 locations where the high-voltage system was interrupted (July 26, 1995 letter from Mr. Abair). The Company reported that a total of 71 line crews responded to the Storm, consisting of eleven WMECo crews and 60 crews from the Connecticut Light and Power Company ("CL&P") and the Public Service Company of New Hampshire ("PSNH") (id.). According to the Company, as of noon, Saturday, July 15, 1995, 26,000 of 193,187 WMECo customers were without power (id.). By noon, Sunday, July 16, 1995, the Company reported that approximately 14,000 customers were without power (id.). By noon, Monday,

July 17, 1995, approximately 5,500 customers were without power (id.). As of Tuesday, July 18, 1995, the Company reported that approximately 2,000 customers still had no power in the Hadley/Greenfield and Pittsfield districts (id.). The Company stated that the length of time required to restore the last 2,000 customers was due to extensive damage scattered throughout sparsely populated areas with long spans of wire serving relatively few customers (August 2, 1995 Testimony of Mr. Abair).

The Company informed the Department that union employees were on strike³ at the time of the Storm. The strike caused a delay in the restoration effort because it prevented WMECo from using union replacement crews from CL&P and PSNH (July 26, 1995 letter from Mr. Abair). The union offered to return to work temporarily to assist in the response to the Storm (id.). The Company offered several reasons for its decision to decline the offer (id.).⁴ Instead, it relied on its own management staff and management crews from WMECo and its affiliates to respond to the Storm (id.).

C. Prior Investigations into Storm-Related Outages

The Department is responsible for ensuring that electric companies provide service consistent with the "safety and convenience of the public." G.L. c. 164, § 76. As competition is introduced to the electric industry, companies must continue to provide a high quality of customer service. The Department previously has investigated emergency plans and procedures

³ The Company stated that a total of 296 workers struck the Company on May 25, 1995 (Exh. DPU 4-1). On September 1, 1995, 146 striking workers returned to work, and on September 15, 1995, the final 150 striking workers returned (id.).

⁴ See discussion in Section IV. A, below.

implemented by electric and telephone companies for restoration of service interrupted by severe storms. Eastern Edison Company, D.P.U. 85-232 (1986) ("D.P.U. 85-232"); Investigation by the Department regarding Hurricane Bob, D.P.U. 91-228 (1992) ("D.P.U. 91-228"). In D.P.U. 85-232, the Department responded to customer dissatisfaction with Eastern Edison Company's ("Eastern Edison") response to Hurricane Gloria and ordered Eastern Edison to revise its storm emergency plan. Id. at 2, 32. In D.P.U. 91-228, the Department focused on emergency plans and restoration of service of all jurisdictional electric utility companies in Massachusetts, including WMECo,⁵ and issued several directives regarding these issues. In the present investigation, the Department examines, among other things, whether WMECo has complied with these earlier directives.

II. PRE-STORM PREPARATIONS: THE COMPANY'S EMERGENCY PLAN

This section of the Order assesses the Company's preparations to respond to emergency conditions and seeks to determine whether the Company's Retail Business Group System Emergency Plan ("System Plan") (Exh. DPU 1-1), the WMECo Regional Emergency Plans ("Regional Plans") and specific district plans ("District Plans") (Exh. DPU 2-1) (collectively the "Emergency Plan") were reasonable, appropriate, and consistent with previous Department directives.⁶

⁵ Specifically, the Department investigated Boston Edison Company, Cambridge Electric Light Company, Commonwealth Electric Company, Eastern Edison, Fitchburg Gas and Electric Company, Massachusetts Electric Company, Nantucket Electric Company, New England Telephone Company, and WMECo.

⁶ The System Plan is a generic NU plan and serves as a model for the Regional Plan and District Plans (Exh. DPU 1-1, at 1.3). The Regional Plan applies to the entire (continued...)

A. Coordination of Training with Local and State Officials

The Department previously directed each electric company to solicit comments and suggestions from municipal officials on its Emergency Plan and to consider using municipal officials in training sessions for emergencies. D.P.U. 91-228, at 4, 9. WMECo reports that it provides annual or more frequent training to individuals with emergency assignments in the WMECo organization, but it does not normally include local officials as part of the training (Exh. DPU 1-8; see also Exhs. DPU 2-15, DPU 2-24, DPU 2-25).

The Department finds that the Company's failure to include town emergency response personnel in its emergency training and emergency plan reviews and its failure to participate in locally-conducted emergency preparedness training sessions result in an emergency plan that is inadequate in providing a prompt and effective response to local priorities (see Otis Tr. at 22; Pittsfield Tr. at 21; July 25, 1995, Town of Colrain letter; July 19, 1995, Town of Southampton letter). Therefore, the Department directs WMECo to amend its Emergency Plan to provide for the inclusion of local officials and emergency response personnel in both its emergency training and its emergency plan reviews in the future.

B. Tree Trimming Policies and Procedures

In the past, the Department directed each electric company to conduct annual meetings with the tree wardens of each municipality within its service territory and to establish better communication and coordination of procedures with tree crews in local communities. D.P.U. 91-

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WMECo service territory (Exh. DPU 2-1, Atts.). The District Plans apply to the Greenfield, Hadley, Pittsfield, and Springfield service areas (id.).

228, at 12. During the investigation, questions arose regarding the typical length of time it takes to trim or remove problem trees and whether the Company's Emergency Plan addresses the occasional need to call in additional tree-trimming crews.

The Company indicated that it conducts meetings with local tree wardens on an on-going basis throughout the year to inform the tree wardens of trimming plans within the city or town that they represent (Exh. DPU 2-28). The Company stated that its "Adopt a Feeder" program provides for bimonthly patrols of the electrical distribution system which includes the review of possible main line outages due to critical tree conditions (Exh. DPU 2-27). The Company also indicated that tree trimming or removal may be recommended by its arborists, and that the recommended tree trimming or removal is normally completed within one to two months of an inspection (Exh. DPU 2-26; Exh. DPU 2-27). Prior to expected storms, the status of tree crews under contract is reviewed (Exh. DPU 1-12). The Company stated that its Emergency Plan included listings of contracted tree crews and the suggestion that additional tree crews could be asked to report directly to service centers or satellites during a storm (Exhs. DPU 3-10, DPU 1-12).

The Company responses indicate that WMECo has established good communication and coordination with local tree crews. The responses also indicate that once the Company identifies problem trees, it trims them within a reasonable amount of time. Therefore, the Department finds that the Company's tree trimming methods are reasonable, appropriate, and consistent with previous Department directives.

C. Storm Watch and Evaluation

The Department has stated that monitoring and evaluating approaching storms is a critical component of an effective emergency plan and directed each electric company to review its system for weather tracking and to determine whether the system it employs is effective. D.P.U. 91-228, at 13. As part of the Company's pre-storm emergency planning, the Company's procedures for monitoring approaching storms and evaluating the effects the storm may have on the Company's service territory were reviewed by the Department.

The Company asserted that it does monitor and evaluate approaching storms under its Emergency Plan procedures (Exh. DPU 1-12). The Company explained that it has a contract with the New England Weather Service, which provides doppler radar and lightning detection terminals in the Company's Emergency Operations Center (Exh. DPU 2-29). This service enables the Company to receive storm track and intensity data (Exh. DPU 1-12). In addition, the Company receives weather forecasts twice per day, severe weather updates, and has 24-hour access to a meteorologist (Exhs. DPU 1-12, DPU 2-29).

The Company also indicated that it is in the process of building its own windspeed temperature weather sites throughout its service areas (Exh. DPU 2-29). Seven of these sites are in operation with four more to be installed in the future (id.).

Upon receiving storm track and intensity data, key management personnel discuss forecasts and the storm's anticipated effects on the Company's electrical system, and review the Company's organization of personnel assigned to the storm, in order to assess staffing needs and determine if there are any critical absences (Exh. DPU 1-12, DPU 3-10). The Department finds

that the Company, upon notification of the possibility of severe storms, discusses staffing needs and schedules follow-up conference calls in anticipation of forecast changes.

The Department finds that the Company's forecasting capabilities and resources available to WMECo for storm watch and evaluation before the Storm were reasonable, appropriate and consistent with Department directives.

D. Line Trucks

The Department evaluated the availability of line trucks, which are used in the normal maintenance and emergency repair of distribution lines, as a measure of the Company's preparedness for storm restoration under the Emergency Plan. , Mr. Abair stated that "WMECo vehicles were strategically positioned off-site to expedite their use by management line crews from PSNH and CL&P," because the strike was affecting access to line trucks in the Company's yards (July 26, 1995 letter to the Department, at 2). The Company reported that, of the 43 company-owned and five rented line trucks, five line trucks in the Greenfield/Hadley district were available but not used during restoration, and three rented trucks located at Pleasant substation were not used during restoration because they were not stocked with equipment or material (Exh. DPU 1-19). In addition, seven of the line trucks were unavailable at the time of the Storm because they required repair (id.).

Clearly it was reasonable to station line trucks at locations that made them more readily accessible to management line crews during the union picketing. However, the record indicates that, at the time of the Storm, ten of the Company's 48 line trucks (more than one-fifth) were not able to be used by either WMECo management line crews or outside management line crews.

Therefore, the Department finds that WMECo did not have a sufficient number of line trucks adequately prepared for a major storm. The Department directs the Company to review its maintenance program for line trucks and its practice for stocking rented line trucks with the necessary equipment and material so that as many line trucks as possible can be available to respond to unanticipated emergencies; the Company should pay particular attention to developing a system by which it can regularly verify and report to upper management that line trucks are, in fact, being kept in good repair and properly stocked. Such a verification system would be particularly valuable during a strike, as it would keep management alert to a matter that is critical to performance in storm emergencies. The Department finds that line trucks and other equipment covered as a cost of service through rates should be available to serve ratepayers and not be sitting idle or unusable.

E. Materials and Stores

The Department investigated whether the Company, in anticipation of possible storm emergencies, adequately stocks distribution line trucks with materials, patrol maps, and electrical distribution system components. The Company indicated that, in preparation for storm emergencies, the Company determines whether supplies are adequate and ready for deployment to a region or district (Exh. DPU 2-1). The Company also indicated that, after receiving storm track and intensity data from the New England Weather Service, the Company checks line trucks for materials, fuel, and appropriate patrol maps (Exh. DPU 1-12).

According to the record, the Company's Regional Plan District and District Plans indicate that, in preparation for storm emergencies, the Company will determine whether supplies are

adequate and ready for deployment to a region or district (Exh. DPU 2-1). Therefore, the Department finds that the Company's Regional Plans and District Plans should be adequate for preparation of distribution line truck's materials, fuel, patrol maps, and electrical distribution system components prior to storm emergencies.

F. Personnel Assignments for Emergencies

The Emergency Plan provides for the selection, training, and assignment of suitable Northeast Utilities Service Company ("NUSCO") employees to support and augment the existing region and district work forces during emergencies (Exh. DPU 1-1, 2-1).

According to the Company's System Plan, Sections 3 and 5, after an emergency is declared by the Company, the regions or districts shall contact assigned individuals at home or work using telephone numbers from an active computer list which is updated and distributed to all regions by February 1 of each year (id.). The Regional Plan, provided to the Department, included a list of NUSCO personnel assigned to emergency duties and was dated November 8, 1993 (Exh. DPU 2-1). In addition, the Company provided the Department with its District Plans, which also indicated that the District Plans' personnel lists were outdated (id.). It is clear that the Company's District Plans and Regional Plans' lists of NUSCO personnel assigned to emergency duties is outdated. Therefore, the Department directs the Company to update these lists by January 1, 1996.

The Emergency Plan also requires the advance identification of line crews from outside the company's service territory who may be called upon to respond to emergency conditions (Exh. DPU 1-37). The record shows that WMECo is a member of the Edison Electric Institute ("EEI")

and has access to work crew assistance from all companies on the EEI Mutual Assistance Roster (id.). The Emergency Plan clearly anticipates that line crews from other companies will be called in as needed (Exh. DPU 1-1).

However, the Department finds that the Emergency Plan does not provide for the identification of sufficient outside line crews when the Company's workforce is on strike and demand for supplemental crews will be greatest. Furthermore, the Emergency Plan does not address how management personnel should be selected, trained, and assigned to perform physical line restoration activities during a work force strike. Therefore, the Department directs WMECo to amend its Emergency Plan to include how, during both a storm and work force strike, line crews from other companies are secured and management personnel are selected, trained, and assigned to perform physical line restoration activities.

G. Electrical Distribution System Readiness

During the course of this investigation, the Company was asked to explain how, in its emergency planning procedures, it prepares its electrical distribution system for storms. The Company indicated that its electrical distribution system has sectionalizers, fuses, cutouts, and air-break switches, which are included in the system design to limit the damage that might result from severe storms (Exh. DPU 1-16). Protective devices would automatically switch off any live overhead wires that might come into contact with the ground (Exh. DPU 1-18). The Company explained that, prior to expected storms, overhead circuitry and protective devices that are in an abnormal status (e.g., off-line for repairs) are restored to normal status where practical (Exh. DPU 1-12). The Department finds that the Company's actions to take reasonable steps to (1)

design protective equipment into the distribution system and (2) bring all portions of the distribution system to normal status, are consistent with a planning process and Emergency Plan that properly anticipates storm conditions. However, in light of the number of downed wires that resulted from the Storm and the fact that a death resulted from one, the Department directs the Company to evaluate whether greater use of devices that would automatically switch off downed lines would be practicable.

H. Prioritization of Restoration Activities

The Department expects an electric company's assessment of its service restoration priorities to produce a workable and concrete plan for addressing the needs of identified customers. D.P.U. 86-232 at 16. The Department recognizes that the Company has responsibility for electric service to many cities and towns, and that the manner in which a utility addresses the concerns of the individual municipalities in its service territory is important to the ultimate success of any restoration plan.

WMECo provided a copy of its System Plan containing a restoration priority section which states that "[r]estoration shall proceed in conformance with providing service to the greatest number of customers in the least amount of time," and that an initial emphasis on the restoration of substations, followed by distribution feeders, sidetaps, and individual services "is consistent with early service restoration to critical customers" (Exh. DPU 1-1, at 1.4). The Company states that emergency calls regarding harmful or life-threatening situations are given the "highest priority in terms of crew dispatch," and asserts that priorities are reevaluated in semi-annual reviews of the Emergency Plan (Exhs. DPU 1-5, 1-6, 1-7, 1-8). WMECo stated that

"[l]ocations where wires are down or structures are unstable are ... given a higher priority than the restoration of service" (Exh. DPU 1-4). The Emergency Plan also reveals that the Company has established a system of prioritizing customers within each community to ensure those providing essential services or with critical needs are addressed first (Exh. DPU 2-1).

The record demonstrates that the Emergency Plan does contain a plan for prioritizing the Company's response to emergency conditions. At issue, from the standpoint of the plan alone, is whether the prioritizations reasonably provide for input from the local officials that would be best positioned to identify local priorities and reasonably balance the response across the communities affected by larger outages. A letter from the Board of Selectmen from the Town of Colrain, which indicated that local officials have invested much effort in developing a priority listing for the restoration of electric service, suggested that the Emergency Plan may not adequately address their priorities.

A reading of the Company's Emergency Plan reveals that the Company reviews priorities for the restoration of service prepared by local officials (Exh. DPU 1-1, at 1.4). The Emergency Plan provides that the actual response to an emergency would involve "due consideration" of identified priorities rather than strict adherence to them (id. at 17.11). The information included in the record suggests, however, that the opportunity for local officials to provide input to the Emergency Plan's priorities may be limited. For example, the Company admitted that it "has no record of updated Emergency Plans being sent to town officials in Hampshire, Franklin, and Hampden County towns since December 1992" (Exh. DPU 2-25). It is not clear the Company could reasonably expect input from local officials in all of its towns regarding the restoration

priorities addressed in the Emergency Plan when a number of towns in WMECO's service territory may have not been provided with a copy of a current Emergency Plan for at least two years. The Company has acknowledged this omission and is prepared to address the same. Nonetheless, as evidenced by the response of municipalities to the Company's restoration prioritizations after the Storm, the priorities that exist within the Emergency Plan may not be adequate to the needs of a significant portion of its customers.

The Department finds that WMECo must improve its working relations with municipal officials in establishing restoration priorities. Accordingly, the Department directs the Company to meet annually with the officials in the municipalities within its service territory, and to develop an acceptable ranking of pre-determined priorities for restoration of electric service within the context of the Company's entire distribution system. The Department directs the Company to report the dates of such meetings in the annual updates to the Department due the first day of September each year. Finally, the Department notes that considerable number of customers in smaller towns complained that they waited the longest to have service restored. Some emphasize that the loss of electric service also caused them to be without water or sewage services, which rely on electric pumps that draw water from wells (Angleman, Clayton, Gauger, Gile, Gonska, Kearn, Lempke, Mott, and Pachulski letters). The Department directs WMECo to review its restoration priorities with special attention to whether its Plan strikes a fair balance in restoring service to customers in urban and rural settings.

I. Periodic Review and Evaluation of Emergency Procedures

The Department investigated the periodic review and evaluation by the Company of its emergency procedures contained in its Emergency Plan, and the Company's response to directives in D.P.U. 91-228. Specifically, the Department evaluated (1) whether the Company subjects its Emergency Plan to a periodic re-evaluation, (2) whether the Company solicits comment or suggestions from consumers, municipal officials, company employees, or outside crews when developing and revising its Emergency Plan, (3) whether the Company conducts annual storm simulations, and (4) whether the Company examines other utility companies' emergency plans in order to consider the incorporation of any useful changes. D.P.U. 91-228, at 4. They are discussed below.

1. Reevaluation

The Department investigated whether the Company subjects its Emergency Plan to a periodic reevaluation. The Company indicated that its Emergency Plan contains more detailed District Plans (Exh. DPU 1-1). The District Plans consist of the WMECo region in general, and the Greenfield, Hadley, Pittsfield, and Springfield districts (Exh. DPU 1-1, 2-1). The Company's Emergency Review Committee meets in April and October each year to review and evaluate the District Plans and make any necessary changes (Exhs. DPU 1-8, 2-1). The Company provided copies of the District Plans (Exh. DPU 2-1).

The Department previously directed each electric company to implement and maintain systems for reviewing its emergency plans on an annual basis (D.P.U. 91-228, at 4). Department review of the Western Massachusetts District Plan, which was last revised on April 1994, revealed

that Section 2.11 of the plan included outdated information regarding tree contractors regularly employed by the Company (Exhs. DPU 2-1, 2-20). The record shows that the Greenfield District Plan has a revision date of November 1992, which applies to the list of personnel assigned to emergency duties (Exh. DPU 2-1). Therefore, the Department finds that the Company has not updated its District Plans on an annual basis in a complete manner. The Department directs the Company to update its District Plans and submit those updated plans to the Department by January 1, 1996.

The Department emphasizes that sound emergency plans are essential to the delivery of safe, reliable service to customers. Consequently, they should receive regular and careful attention from senior management, and they should be updated at least annually to ensure that they remain current and effective. In keeping with these objectives and to ensure that the Company's Emergency Plan is receiving the attention that it deserves, the Department further directs the Company to provide a copy of the annual update to its emergency plan to the Department on the first day of September of each year.

2. Solicitation of Comment and Suggestions

The Department investigated whether the Company solicits comments or suggestions from consumers, municipal officials, company employees, or outside crews when developing and revising its Emergency Plan. The Company indicated that it submitted its Emergency Plan to libraries throughout Western Massachusetts, encouraged consumers to submit comments, mailed bill inserts notifying consumers that the plan was available in local libraries, asks outside utilities for comments on an ongoing basis, and regularly sends its employees to conferences regarding

emergency restoration plans (Exhs. DPU 2-14, 3-19). The Company indicated that it does not involve the Massachusetts Emergency Management Agency ("MEMA") in its emergency planning activities, although the Company makes provisions in its Emergency Plan for close interaction with the MEMA during its response to major storms (id.).

The Department previously directed electric companies, as part of their evaluations of their emergency plans, to solicit comments and suggestions from consumers, municipal officials, company employees, and outside crews that might have assisted the Company (D.P.U. 91-228, at 8). The record shows that the Company does solicit comments and suggestions from consumers, municipal officials, company employees, and outside crews in the evaluation process (Exhs. DPU 2-14, 3-19). However, the record reveals that the Company's solicitations may not be as comprehensive as possible with respect to municipal officials. For example, the Company admitted that it "has no record of updated Emergency Plans being sent to town officials in Hampshire, Franklin, and Hampden County towns since December 1992" (Exh. DPU 2-25). The record also shows that the Company does not solicit comments and suggestions from MEMA (Exhs. DPU 1-11, 3-9). Soliciting comments and suggestions from MEMA would benefit the Company and its customers, since close communications between the Company and MEMA is critical during some emergencies (Exh. DPU 1-11). Therefore, the Department directs the Company to ensure that officials in each municipality are contacted annually regarding the Emergency Plan and to solicit comments and suggestions from MEMA in the evaluation of the Emergency Plan.

3. Annual Storm Simulations

The Department investigated whether the Company conducts annual storm simulations as part of the periodic evaluation of its Emergency Plan. The Company indicated that it does not conduct emergency drills or external simulations of storms to test the effectiveness of the Emergency Plan (Exh. DPU 1-8). However, the Company indicated that individuals within the WMECo organization with emergency assignments attend internal storm simulations annually (id.). In addition, the Company revealed that it does not involve public officials in its storm related training because of its focus on internal processes (Exhs. DPU 2-15).

The record shows that the Company last simulated storm exercises in the Springfield, Pittsfield, Hadley, and Greenfield districts on May 24, 1994, May 11, 1995, May 8, 1995, and May 8, 1995, respectively (Exh. DPU 2-15). Since the Springfield district exercise was over a year ago, the Department finds that the Company does not conduct storm simulations on an annual basis in all of its districts. Annual storm simulations provide the individuals who have emergency assignments in WMECo's districts with beneficial feedback regarding information needed by customers, and town and state officials. Furthermore, the feedback made possible by regular storm simulations would be beneficial when reviewing and updating the Emergency Plan. Therefore, the Department directs the Company to conduct annual storm simulations involving each of its regional and district "Major Emergency Restoration Information Teams" and to report to the Department the dates these have been held in the annual update due the first day of September each year.

4. Examination of Other Electric Companies' Emergency Plans

The Department previously encouraged electric companies to review each other's damage assessment processes, in order to share proven approaches to storm response (D.P.U. 91-228, at 20). The Department reviewed whether the Company examines other utility companies' emergency plans in order to consider the incorporation of any useful changes. The Company indicated that it does examine other electric companies' emergency plans in order to identify useful changes to its Emergency Plan (Exh. DPU 2-23). The Company also indicated that the last time such a review occurred was in February 1993 in response to D.P.U. 91-228 (id.).

The record shows that the Company does in fact review other companies' emergency plans, and that such a review occurred was in February 1993 (Exh. DPU 2-23). The record shows that the Company also solicits comments and suggestions from other electric companies through its employee's attending conferences on emergency planning (Exh. DPU 2-14). The Department finds the Company's approach to evaluating its Emergency Plan compared to that of other electric companies to be reasonable and appropriate.

J. Conclusions Regarding the Company's Emergency Plan

The following is a summary of the Department's findings and directives with respect to the WMECo's emergency planning process and Emergency Plan:

- (1) The Department finds that the Company's failure to include town emergency response personnel in its emergency training and Emergency Plan reviews, and its failure to participate in locally-conducted emergency preparedness training sessions produces an emergency plan that is inadequate in providing a prompt and effective response to local priorities. The Department directs WMECo to amend its Emergency Plan to provide for the inclusion of local officials and emergency response personnel in both its emergency training and its emergency plan reviews in the future.

(2) The Department finds that the Company has complied with the directives in D.P.U. 91-228 regarding tree trimming.

(3) The Department finds that the Company reviewed its weather tracking system after D.P.U. 91-228 and increased its forecasting capabilities and that the resources available to the Company for storm watch and evaluation before the Storm were adequate to monitor most storm scenarios. The Department also finds that the Company, upon notification of the possibility of severe storms, discusses staffing needs and schedules follow-up conference calls in anticipation of forecast changes

(4) The Department finds that the Company's District Emergency Plan should provide for adequate preparation of distribution line truck vehicles' materials, fuel, patrol maps, and electrical distribution system components prior to storm emergencies.

(5) The Department finds that the Emergency Plan does not provide for the identification of sufficient outside line crews when the Company's workforce is on strike. Furthermore, the Emergency Plan does not address how management personnel should be selected, trained, and assigned to perform physical line restoration activities during a work force strike. Therefore, the Department directs WMECo to amend its Emergency Plan to include how, during both a storm and work force strike, line crews from other companies are secured and management personnel are selected, trained, and assigned to perform physical line restoration activities.

(6) The Department directs the Company to update the WMECo district and regional emergency plans' lists of NUSCO personnel assigned to emergency duties by January 1, 1996.

(7) The Department finds that WMECo did not have a sufficient number of line trucks adequately prepared for a major storm. The Department directs the Company to review its maintenance program for line trucks and its practice for stocking rented line trucks with the necessary equipment and material so that as many line trucks as possible can be available to respond to unanticipated emergencies; the Company should pay particular attention to developing a system by which it can regularly verify and report to upper management that line trucks are, in fact, being kept in good repair and properly stocked. The Department finds that line trucks and other equipment covered as a cost of service through rates should be available to serve ratepayers and not be sitting idle or unusable.

(8) The Department finds that the Company's actions to take reasonable steps to (1) design protective equipment into the distribution system and (2) bring all portions of the distribution system to normal status, are consistent with a planning process and Emergency Plan that properly anticipates storm conditions. However, in light of the number of downed wires that resulted from the Storm, the Company should evaluate

whether greater use of devices that would automatically switch off downed lines would be practicable.

(9) The Department finds that the Company has not updated its District Plans on an annual basis in a complete manner. The Department directs the Company to update its District Plans and submit those updated plans to the Department by January 1, 1996. The Company is hereby directed to provide a copy of the annual update to its emergency plan to the Department on the first day of September of each year.

(10) The Department finds that soliciting comments and suggestions from the MEMA would benefit the Company and its customers, since close communications between the Company and MEMA may be critical during some emergencies. Therefore, the Department directs the Company to ensure that officials in each municipality are contacted regarding the Emergency Plan and to solicit comments and suggestions from the MEMA in the evaluation of the Emergency Plan.

(11) The Department finds that the Company does not conduct storm simulations on an annual basis in all of its districts. The Department directs the Company to conduct annual storm simulations involving each of its regional and district "Major Emergency Restoration Information Teams."

(12) The Department finds that the Company's approach to evaluating its Emergency Plan compared to that of other electric companies to be appropriate and in compliance with the directives in D.P.U. 91-228.

(13) The Department finds that WMECo must improve its working relations with municipal officials in establishing restoration priorities. Accordingly, the Department directs the Company to meet annually with the officials in the municipalities within its service territory, and to develop an acceptable ranking of pre-determined priorities for restoration of electric service within the context of the Company's entire distribution system. The Department directs the Company to report the dates of such meetings in the annual updates to the Department due the first day of September each year. The Department directs WMECo to revisit its restoration priorities with special attention to achieving a reasonable balance between the restoration of customers in urban and rural settings.

III. COMPANY'S IMPLEMENTATION OF THE EMERGENCY PLAN

A. Introduction

This section of the Order provides an assessment of the WMECo's performance in implementing the Emergency Plan that it had developed in advance of the Storm. First, the

Department presents a sampling of the comments received from local officials and customers in WMECo's service territory. As noted above, the Storm affected much of the Company's service territory. During the course of this proceeding, the Department received 87 letters from the Company's customers voicing numerous concerns regarding the Company's response to the Storm. Additionally, 36 customers testified in the three public hearings that were held; again, most focused on concerns regarding the Company's response to the Storm.

Among the many comments submitted to the Department were those from the Selectmen of the Town of Southampton ("Southampton"). Southampton stated a concern about the time it took WMECo to respond to the Storm (July 19, 1995 Southampton Letter to Department). Southampton public safety officials stated that WMECo's response time, and its response to live wires in heavily populated areas of the town and restoring water service was poorly handled (id.). Southampton "strongly recommend[ed] that consideration be given to a coordination plan by which communities would know the appropriate action to be taken in the event of an emergency in conjunction with respective public safety efforts (id.)."

The Selectmen of the Town of Otis ("Otis") also complained to the Department of the lack of a timely response by WMECo to the Storm (Otis Tr. at 28-30; July 19, 1995 Otis Letter to the Department). Otis stated that WMECo's "lack of timely response to life-threatening conditions when additional work forces were available to them does not reflect well on their supposed purpose of serving the public need" (July 19, 1995 Otis Letter to the Department). Otis alleged that WMECo "placed financial concerns before the health and safety of others (id.)."

Otis stated that, "through the use of 911 service, Northeast Utilities was notified of a severed electrical cable down and burning on South Main Road" (id.). A tree had fallen and severed a 23 KV distribution line, which resulted in the death of a woman. The state fire marshall's preliminary opinion was that the fallen line energized the underground pipes of the woman's septic system, and that the woman was electrocuted when she exited her home and walked barefoot on the wet ground above the energized piping (id.). The Otis Letter reflected a concern that the downed line represented a continuing danger to residents and emergency workers. Otis officials were unable to reach WMECo on the Company's telephone numbers that had been furnished, and were not able to contact WMECo directly until they reached the WMECo customer service department at approximately 11:45 a.m. (id.). Otis stated that WMECo indicated that it "would try to release a crew to Otis, but assistance might not be available for as long as twenty-four hours (id.)."

Later that day, at 4:10 p.m., there was a fire at a house directly across from the same downed wire; the downed line continued to endanger Otis emergency personnel (id.). Anthony Garina, an Otis resident, testified that the firefighters were getting shocks as they worked (Otis Tr. at 40, 41). Otis reported that the live wire was finally removed at approximately 9:00 p.m. on July 15, and service in that area and the western section of Otis was not restored until Monday, July 17, 1995 (id.). Otis states that, in a separate event, downed trees and live wires also caused a section of State Route 23 to be closed to traffic from July 15 through July 17, 1995 (id.).

In another incident, on July 15 at 2:30 p.m., Otis reported to WMECo a live wire arcing in a "densely wooded area in the Kingsley/Lee-Westfield Roads area of East Otis, a thickly

populated second home community" (id.). Otis stated that it informed WMECo that, if the line were not immediately deenergized, a brush fire and subsequent house fires could result (id.). Otis reports that "[n]othing was done to respond to our request until the Chairman of the Otis Selectmen convinced a utility crew ... on South Main Road that something had to be done in the Kingsley/Lee-Westfield Roads area" (id.). Otis stated that the line was not deenergized until approximately 10:05 p.m. that day (id.).

Customers reported that town workers in Lanesboro were endangered when a downed wire was unexpectedly reenergized (Darocho, Furtek, Goerlach, Storie Letters). Mary Coppa, a nurse from Sandisfield, testified that at a fifty-five bed veteran's nursing home had no electricity from July 15 at 7:30 a.m. until 7:00 p.m. on the evening of July 17 (Otis Tr. at 46). Ms. Coppa testified that around noon on Sunday, July 16, an electric crew came by the nursing home; the crew was not aware that the home was without electricity (id. at 47). However, she testified that the director of the nursing home had made several calls between 7:00 a.m. on July 15 and noon on July 16, informing WMECo that the nursing home had no electricity (id.).

B. Staffing in Response to the Storm

In this section, the Department assesses the Company's decisions regarding staffing of line crews and internal communications posts in response to the storm emergency.

1. Description

In implementing its Emergency Plan, WMECo would normally rely on its management employees to coordinate and direct storm response activities, while its union employees would perform field and support activities. Some qualified management personnel would be assigned to

line crews. The Company's Emergency Plan assumes the availability of outside line crews to augment the Company's own line crews in the performance of restoration activities after major storms. As the Storm swept across the Company's service territory, the Company was in the midst of a strike by the union representing 296 field and support employees, including the members of 33 line crews (Exh. DPU 4-1, July 26, 1995 Abair Letter at 2).

Because union employees were unavailable, WMECo formed 14 line crews from management personnel within the Company (Exh. DPU 1-17, at 3). WMECo reported that, to prepare for the possibility of a major storm during the strike, six to eight management line crews from CL&P and PSNH were placed "on call" for use in WMECo territory during the strike (id.). WMECo acknowledged that, "from the onset of the storm through July 17" (Exh. DPU 2-49), it requested "as many qualified line crews as could be provided" (Exhs. DPU 2-34, 2-49) from NU affiliates. The Company indicated that additional line crews from the NU affiliates did arrive, and that a total of approximately 70 line crews eventually participated in the restoration process (Exh. DPU 1-17).

In his letter of July 26, 1995, Mr. Abair revealed that WMECo's union had offered to have striking workers return to work long enough to complete the storm restoration, but that the Company declined the offer (July 26, 1995 Abair Letter at 3). In testimony at the Otis hearing, Mr. Abair offered three reasons for WMECo's decision to reject the union's offer to return to work for storm restorations: "logistics, drug and alcohol testing, and safety" (Otis Tr. at 10). Mr. Abair elaborated on each reason as follows:

In terms of logistics ... the management crews were busy restoring power, to redirect them to the task of integrating returning workers would have significantly

delayed restoration to a large number of customers. In addition, we had a major work force on the move from our Connecticut and New Hampshire companies. Any attempt to bring in striking workers at that time would have interrupted them as well. We did not believe a safe and successful integration of striking workers with the management workers could be accomplished that quickly.

The drug and alcohol testing was and still is another critical issue [O]ur legal counsel advised us that testing was mandatory before returning striking workers would be allowed to drive out large vehicles.

We simply could not have been able to resolve the many issues associated with the safe and orderly return to work on that morning of July 15 (id. at 10-11).

The Company indicated that, had there not been a union work stoppage, it would have been able to obtain 125 union line crews from CL&P, 60 union line crews from PSNH, and that the NUSCO management personnel could have been used to coordinate the activities of line crews from other states that would have responded to the call for assistance (Exh. DPU 3-4). WMECo related that, after a large storm, it would normally seek assistance from other utilities on the EEI Mutual Assistance Roster; however, it "did not request assistance in this storm because union crews from other utilities would not have worked due to the work stoppage by WMECO union employees" (Exh. DPU 1-37). WMECo asserted that, regardless of the work stoppage, "it [was] doubtful that the Company would have ... receive[d] significant help from other utilities prior to the following work week" (id.).

Consequently, from the onset of the Storm, WMECo requested as many line crews from management personnel as could be made available from the NUSCO emergency operations center, CL&P and PSNH (Exhs. DPU 2-40, 2-49). The Company also reassigned to line crews some of its management personnel from their regular Emergency Plan assignments (Exhs. DPU 1-14, 2-43). That is, additional management personnel assumed "troubleman" and "helper"

positions on line crews during the Storm (Exh. DPU 1-14). The Company indicated that the reassigned management personnel were expected to perform all storm response work in compliance with Company standards and all applicable state and federal regulations (Exh. DPU 1-14). The Company indicated that those who were designated as troublemen were former fully-qualified journeymen linemen; they performed the restoration activities that involved working on energized facilities (Exh. DPU 1-14). The helpers were persons who regularly occupied a variety of management positions in the Company and provided assistance to the troublemen (Exh. DPU 1-14). The Company also indicated that all line crews during the Storm had at least one fully-qualified line worker with between six and 25 years experience who had attended a "refresher course" within the previous twelve months (Exh. DPU 2-7). The Company also stated that all helpers had received training prior to the Company's work force strike (Exh. DPU 2-7).

The Company provided a listing of all individual management line crew members, qualifications, and years of experience as either journeyman linemen, working foremen, trainers, or linemen (Exh. DPU 1-31). The Company maintained that, before the Storm struck, its operations center personnel began calling in available supervisory dispatch and line crew personnel. The Company also asserted that called its entire list of employees multiple times over the weekend of the Storm restorations; however, WMECo indicated that it had difficulty reaching employees in Connecticut who were unaware of the emergency because the Storm did not have such a severe effect on Connecticut (Exhs. DPU 1-27, 3-5, 3-10).

The Company noted that it did not receive any citations for safety regulations violations during the Storm (Exh. DPU 2-9). The Company indicated that although the Company's

emergency plan does not reference the "Lineman Safety Act" (see G.L. c. 149, § 129C), the safety rules that were in effect during the restorations were the same as during normal work periods (Exh. DPU 2-4). The Company stated that personnel assigned to perform line work during the Storm were adequately trained and supported by other adequately trained personnel, and that its contracted tree crews regularly assigned to storm work are qualified contract line clearance tree workers who are expected to comply with established safety standards (Exhs. DPU 2-4, 2-20).

2. Analysis and Findings

The limited number of line crews available to the Company was clearly a critical factor in the response to the July 15, 1995 storm and the time that it took to restore service to all customers. The Department is cognizant that, at the time of the Storm, the Company was in the second month of a strike by the union workers that would normally comprise 33 of its line crews and fill other support positions. However, WMECo's decision to reject the union's offer to return to work for the duration of service restoration had significant consequences for both the Company's storm response and ultimately its customers.

The Company indicated that, but for the strike, it would have been able to draw 185 line crews from its affiliates. Moreover, electric companies typically bring in line crews from across the Northeast and Canada in response to major storms. The Department notes that, for the storm restoration following Hurricane Gloria in 1985, WMECo secured a total of 433 crews from 13 utilities, including line crews from Hydro-Quebec (D.P.U. 85-232, at 9); WMECo was able to restore all customers by the second day after Hurricane Gloria (id.). Whether the Company's own union employees could have been integrated into the restoration effort fast enough to have

restored service sooner cannot be determined. Nor can it be determined how many line crews from other electric companies that might have responded to a call would not have because the call would have been placed during a weekend. What is clear is that acceptance of the union's offer would have created an opportunity to draw upon a very large pool of outside union crews. As it was, the Company determined to call none. As such, the Company limited its access to outside assistance through its decision not to accept the union offer for a moratorium on the strike. The Department notes the observation made by Representative Larkin at the Pittsfield hearing that WMECo's decision to reject the union's offer to return to work not only denied its customers the assistance of its own 296 union employees, but more importantly precluded assistance from union employees of other electric companies who would not cross picket lines during a strike (Pittsfield Tr. at 17).

The Department recognizes that WMECo's union employees had been out on strike since May of 1995. Nonetheless, the Company had an obligation to maintain adequate staffing levels to deal with the possibility of a storm that might require resources beyond those of normal operational needs. The Department finds that WMECo failed to take reasonable steps to make available sufficient staff to respond to the Storm in an efficient and effective manner, and thus failed to meet its public service obligation. In restricting its outside assistance to only management line crews from affiliated companies, the Company jeopardized its ability to restore service to its customers in a reasonable period of time and placed an extremely heavy burden on its limited number of management line crews and created a public safety problem.

The Department further finds that this deficiency exposes an underlying deficiency in the Company's Emergency Plan: WMECo failed to have in place a plan to address the need for additional line crews during a storm emergency during a strike. Strikes have occurred and can be expected to occur from time to time in the electric industry. There is no reason to believe that a major storm will not strike an electric company whose workers are on strike. Therefore, the Department concludes that prudent planning dictates that such contingencies must be anticipated. The Department takes no position on the merits of the underlying union dispute. But service to customers is a paramount duty of an electric company. Work stoppages are a possibility, and an electric company must set up its emergency planning with that possibility in mind.

The Department finds that WMECo's decision to reject its union-represented employees' offer to call a moratorium from the ongoing strike in order to assist in the storm restoration likely caused its customers to be without electric service for a longer period of time than if WMECo had accepted the union's offer. Whether the Company's decision to reject the union's offer was justified, the Company was responsible for ensuring adequate staffing to restore service to its customers within a reasonable period of time under circumstances beyond its control. The Department directs the Company to review and modify its Emergency Plan with regard to the number of line crews and support staff available to respond to a major storm, especially during a union work stoppage, by developing guidelines for addressing such a contingency.

The Department finds that WMECo restricted its access to outside assistance by not accepting its unionized employees' offer to return to work for the period of storm restoration. That decision not only restricted the number of line crews that could be brought in to assist in the

storm restoration -- WMECo's own 33 union line crews, plus approximately 185 union line crews from WMECo's two affiliates, plus an unspecified number of line crews from all companies on the EEI Mutual Assistance Roster -- but it also eliminated the possibility of acquiring the assistance of other non-line crew employees who could have provided essential support services.

The record suggests that, given the work stoppage, the Company did not effectively utilize its available personnel from its own management work force (Exh. DPU 2-42, at 5). In restoring service after any significant interruption of an electric utility's distribution system, the Department views the acquisition and effective utilization of crews from outside the company as an essential component of a company's storm response. The Department finds that WMECo's request, outstanding for the July 15 through July 17 period, to the NUSCO Emergency Center for "as many qualified line crews as could be provided from NU affiliates" (Exh. DPU 2-34) is one of a great many indications that the Company had a strong need for additional personnel. As the record stands, it is not clear whether or not the outside crews were utilized as best possible; customer complaints indicate that there was considerable confusion in the dispatch of work crews during the restoration period.

In viewing a video tape of line restoration activities, which was presented to the Department at the August 16, 1995 Pittsfield hearings, it is clear that unsafe conditions were present during the Storm and that some restoration workers performed restoration tasks in unsafe manners. The Department found no evidence within either the Company's Regional Emergency Plan or the System Emergency Plan establishing tree contractor qualifications (Exhs. DPU 1-1, 2-1). In not having personnel familiar with safety methods to perform live line work, the Company

jeopardized the safety of its personnel performing the live line work as well as the safety of the general public. The Department notes that the Company's RBG System Emergency Plan establishes requirements of Transmission Construction, Test and Maintenance department personnel, when acting as Storm Work Assistance Teams ("SWAT"); the requirements encompass work requirements, team structure, training, material and equipment, and mobilization of crews (Exh. DPU 1-1, at 11). The Department finds that neither the Company's RBG System Emergency Plan nor the WMECo Regional Emergency Plan applies those requirements to substitute management line crews in the circumstance of a work stoppage (Exhs. DPU 2-1, 1-1). Furthermore, the WMECo Regional Emergency Plan does not specifically address work requirements of line crews (Exh. DPU 2-1). The record does not demonstrate that management line crews had actually received adequate safety training prior to performing line work during the Storm (Exhs. DPU 1-31, 2-43, 3-12). The Department finds that the requirements regularly imposed on SWATs need to apply to the Company's substitute management personnel, as part of the Emergency Plan. The Department directs the Company to take steps to ensure that those who perform restorations during storm emergencies adhere to all relevant safety standards.

C. Line Trucks and Materials

The Department investigated whether the Company effectively allocated line trucks and materials in implementing its Emergency Plan.

1. Description

The Company explained that of its 43 line trucks and five rental trucks normally assigned to storm restoration, 34 line trucks were used during Storm restoration work (Exh. DPU 1-19).

The remaining vehicles were not used because eight vehicles had mechanical breakdowns and three vehicles were insufficiently stocked (id.). The Company also explained that line vehicles were not checked for proper materials after the Storm hit because they were fueled and stocked prior to the Storm and because there was a lack of warning of the Storm (Exh. DPU 3-10).

Furthermore, patrol maps were not prechecked because of a lack of warning of the Storm (id.).

The Company explained that three line trucks were not used because most management line crews from PSNH, CL&P, and NUSCO brought their own line trucks from their home bases (Exh. DPU 3-14). The Company also explained that its vehicles were positioned strategically at off site locations during the work stoppage in order that supervisory personnel from CL&P and PSNH could access them without crossing picket lines (Exh. DPU 2-10).

During the Storm, materials supplied by the central warehouse were delivered to both the district and satellite location; the big items delivered to the field included cable, poles, and transformers (Exh. DPU 2-42, at 9). The Company solicited comments and suggestions after the Storm and received no indication that there had been material shortages during the Storm (id. at 2).

2. Analysis and Findings

The record indicates that eleven of the Company's vehicles designated to perform line restoration activities were not available during the Storm because of mechanical breakdown or insufficient stocking (Exhs. DPU 1-19, 3-13). The record also indicates that the Company did not review adequacy of its line repair vehicles' materials, line vehicles' fuel, and patrol maps prior to the Storm (Exh. DPU 3-10). The record also shows that vehicles were strategically positioned at

off site locations during the work stoppage in order that supervisory personnel from CL&P and PSNH could access them without crossing picket lines (Exh. DPU 2-10). Although the strategic positioning of the vehicles can be viewed as a reasonable activity, in light of delays which may have occurred, it indicates that the Company should have ascertained the mechanical condition of its vehicles and the contents of each vehicles' stock. Had the Company maintained each of its vehicles' stock and mechanical integrity, all vehicles in each of the Company's districts would have been available for storm restoration activities. And since most, not all, management line crews from PSNH, CL&P, and NUSCO brought their own line trucks from their home bases vehicles would have been available to management line crews from PSNH, CL&P, or NUSCO that did not bring their own line trucks from their home bases (Exh. DPU 3-14). Because a vehicle was properly fueled and stocked at one time does not ensure that it will be so at some later date. The Company has the responsibility to maintain the mechanical operability of its vehicles. As is noted above, trucks and other equipment covered as a cost of service through rates should be available to serve ratepayers and not be sitting idle or unusable. These facts also support the Department's finding in Part II above that the Company was not adequately prepared for a major storm emergency in this critical support area: line truck availability.

Although restoration was not delayed because of any shortages of cables, poles, or transformers, comments and suggestions received by the Company from its workers after the Storm, indicated that more help was needed in the storeroom bringing stock to the job sites (Exh. DPU 2-42, at 6). Furthermore, on many occasions, a wrong transformer was delivered (Exh. DPU 2-42, at 3). Given the fact that 121 transformers were replaced as a result of the Storm

(Exh. DPU 2-46), misdeliveries were a likely cause of delay in the restoration effort. Therefore, the Department finds that there were significant problems associated with the delivery of some key distribution system components to the sites where they were needed.

The Department directs the Company to (1) ensure that in preparation of storm emergencies, it adequately prepares its distribution line repair vehicles' materials and fuel, (2) ensure that in preparation of storm emergencies, its line repair vehicles are in proper operable condition, (3) ensure that in preparation of storm emergencies, it has patrol maps available in relation to the affected areas of the Company's service territory, and (4) ensure that the Emergency Plan contains procedures that will facilitate communications regarding the need for, and delivery of, field materials and system components essential to storm repairs.

D. Communications

1. Introduction

In this section, the Department assesses two aspects of the Company's communications regarding the Storm. First, the Department assesses the flow of information into the Company, focusing on the mechanisms by which the Company became informed of troublespots on its distribution system. Second, the Department assesses the flow of information out of the Company, especially with respect to the Company's performance in disseminating key information to local officials and the public regarding the progress of restoration efforts.

2. Communications Into the Company: Storm Damage Assessment

a. Description

The Company indicated that it relies almost exclusively on telephone calls from customers and local police and fire departments in order to identify the locations of trouble on its system (Exh. DPU 2-32). WMECo reported receiving "approximately 170 'wire related' calls from police and fire departments" through its Customer Service Center in the wake of the July 15 Storm (Exh. DPU 2-12). In addition, many other calls from local police and fire departments received by the Company reported that customers had called the local authorities about their lack of electric service (id.). As information is received regarding outages and specific instances of wires or poles down, the WMECo Customer Service Center personnel enter the data into the computerized Trouble Call and Interruption Analysis System ("TCIAS") (Exh. DPU 2-36). Dispatchers at the WMECo Regional Operations Center analyze the data from customer calls as well as police and fire department calls and then dispatch crews to the appropriate locations (Exh. DPU 1-3).

WMECo also assessed storm damage by dispatching teams to "patrol" the distribution lines in order to identify trouble locations and the severity of the problem at each location (id.). Once crews were dispatched to trouble locations, "they provided new restoration projections for each location based on the specific circumstances" (Exh. DPU 1-23). WMECo stated that it "conducted complete patrolling as opposed to sample patrolling in areas where the full extent of trouble spots were not evident from customer call-ins" (Exh. DPU 2-31).

The Company explained that one of several factors that limited the Company's ability to quickly assess the damage to its system was the fact that the storm was completely unexpected (Exh. DPU 1-27). The Company reported that within four to six hours of the storm it estimated that "26,000 customers had lost power, that there were at least 300 primary trouble spots, and that 56 towns were known to be affected" (Exh. DPU 2-18). Regarding these initial damage assessments, the Company further related that "some initial patrol reports were also available at the time to help estimate the seriousness of the damage at individual trouble spots" (id.). The Company indicated that, prior to an expected storm, timing and procedures for regular conference calls between operating units are discussed (Exh. DPU 1-12). The Company also indicated that the Company held regular conference calls for key management personnel two to three times per day during the restoration period following the Storm (Exh. DPU 3-10).

The Company explained that "[t]here were several factors in this storm that limited the ability to assess damage to the Company's system quickly" (Exh. DPU 1-27). Those obstacles included

(1) The storm occurred on a summer weekend when it is most difficult to reach employees that would be used for patrols. This situation was worsened by the fact that much of

Connecticut was not affected by the storm so employees there did not call in to see if they were needed;

(2) company union employees such as meter readers were not available for patrolling; and

(3) some Company employees such as consultants and technicians who might be used for patrolling were used as physical workers or as guides for management crews from PSNH and CL&P (Exh. DPU 1-27).

The Company's internal review process for this storm revealed that "[f]or the first 24 to 48 hours patrollers were not available for use" in the Springfield District (Exh. DPU 2-42, at 8).

A Company employee suggested that "we should have patrolled more sooner to assess the nature of trouble before sending crews out" (Exh. DPU 2-42, at 5). Another employee observed that the first few hours of the storm restoration were the most difficult "because the people who would have analyzed the damage situation and organized the restoration operations were out in the field working to restore power themselves" (*id.* at 6).

b. Analysis and Findings

During the course of this investigation, the Department received numerous complaints from individual customers, municipal officials, and legislators regarding their inability to get accurate, or sometimes any, answers out of the Company regarding when electric service would be restored or to get the Company to respond to dangerous conditions such as a live wire in the road (Pittsfield Tr. at 20; Otis Tr. at 18). Notably, the Town of Otis Board of Selectmen reported the inability of state and local police, personnel from the State Fire Marshall's Office and inspectors at the Otis accident scene to contact the Company by using the emergency telephone numbers furnished to them because those telephone lines "were continuously busy" (July 19, 1995 Town of Otis letter; Otis Tr. at 27). An official from Otis testified about the emergency telephone

number the Otis Fire Department had used had "nobody on the other end, not even an answering service" (Otis Tr. at 69).

The record of this case reveals that WMECo's mechanisms for identifying troublespots on its system failed just after the Storm. The comments of many of those who offered testimony to the Department reveal that the Company's telephone centers were overloaded, either by too many calls coming in or too few persons to answer telephones -- or most probably a combination of the two. It is also clear that the Company's line patrols were not effective at obtaining an assessment of the extent of the damage. The Company conceded that the first few hours after the Storm were particularly difficult because those who would have analyzed the damage situation and organized the restoration effort were out in the field working to restore power (Exh. DPU 2-42, at 5). As a consequence, the Company was unable to develop an accurate assessment of the state of its distribution system, nor was it able to provide accurate information to customers regarding when service would be restored. In fact, some testimony suggests that getting in touch with the Company (as difficult as that apparently was) was secondary to the problem of not being able to get an accurate answer out of the Company about restoration targets or getting someone to come assess a problem.

The Department finds that the Company failed to promptly and efficiently assess the condition of its damaged distribution system. It relied on its ability to collect and process information provided over the phone by customers. Such information, while important, is hardly sufficient. The Company put itself at a disadvantage from the start of restoration activities because it did not obtain accurate knowledge regarding each of the troublespots on its system.

Even reliance on Company line patrols to follow up on customer calls produced an inaccurate and inadequate picture of the situation facing the Company, because of the inherent delay experienced in assessing the full extent of storm damage. Therefore, the Department directs WMECo to review its damage assessment procedures. The Company should give particular attention to assessing the feasibility of developing a computerized surveillance system that would monitor the status of its transmission and distribution system directly and identify trouble spots without relying primarily on customer phone calls or patrols.

Emergencies are a fact of business life for a public utility. Inevitably incident to emergencies is loss or degradation of communications systems and the mingling of dire, routine, exaggerated and erroneous reports. Coping with stress on communications by emergencies is something a utility must be able to do. WMECo fell short of meeting this expectation.

The Department directs WMECo to review its process for receiving emergency calls from police and fire departments, as well as calls from its customers. The Company is further directed to evaluate both dedicating telephone lines for use by police and fire departments and the manner in which the Company handles calls received from police and fire departments. Local police and fire departments must be able to get through to WMECo personnel who can authoritatively inform them and commit to follow-up action. Anything less fall short of a company's meeting service obligations. Finally, the Company is directed to amend the Emergency Plan to ensure that customers are provided local telephone numbers for notifying the Company of problems.

3. Communications To Local Officials and the Public

a. Description

The Department received numerous complaints from WMECo customers and their elected officials regarding the failure of the Company to give them reliable and useful answers about the progress of the power restoration. A distillation of the complaints is provided by David Lindsey, of Amherst, who testified that:

"[N]obody could get a straight answer from Western Mass. when this problem was being addressed ... Had they told us at the beginning that we were going to be without power for three and a half to four days, we could live with that....[b]ut instead we kept getting these optimistic reports that power would be back on at noon or at midnight. For some reason those were the only times they gave us, noon or midnight. They never said which midnight or which noon....[c]onsequently everybody on my street who lost power also lost all their food because they kept being assured that the power outage was going to be short. By the time we stopped believing them, our food was rotten." (Amherst Tr. at 70-71)

The Company's customers were frustrated by the failure of the Company to provide accurate restoration estimates or to instill confidence in the customers that Company personnel "know what they are talking about" (Pittsfield Tr. at 61).

WMECo acknowledged that "improvements could be made in our communication of restoration projections to the public and public officials" (Exh. DPU 1-17, at 2). The Company attributed its weaknesses in this area to "the reassignment of management personnel, normally assigned with developing or supporting the development of restoration projections, to direct physical restoration activities" (*id.*). In his testimony at the Otis hearing, Mr. Abair admitted that, while the Company "understands the importance of communicating accurate information regarding the restoration of service," the Company's communication with its customers was below our standards" (Otis Tr. at 12). Mr. Abair went on to acknowledge that "[we] also need to maintain an even closer contact with public officials to fully inform them about the situation and

to update them on our restoration progress", and stated that "we have already addressed this by enacting an improved emergency communication plan for contacting appropriate officials" (id.).

b. Analysis and Findings

The Department has stated that an electric company's "adequate communication of the progress of the restoration to those customers without power" is important to any restoration process and "customer access to accurate and updated information during an emergency situation is essential to customer safety." D.P.U. 85-232, at 11; D.P.U. 91-228, at 28. The Department finds that the Company failed to provide accurate information and adequate communication with its customers, and thus failed to respond to these Department concerns. Furthermore, whether the Company justifiably rejected the union offer to return to work, the Company was responsible for having adequate personnel to provide accurate restoration information to the public. Based on the numerous customer complaints in the record of this investigation, the Department finds that the Company did not have adequate personnel to provide accurate restoration information to the public.

The Department recognizes that the Company has since taken steps to modify its emergency plan to correct its admitted deficiency in communications with public officials. The Department reiterates its prior directive that the Company must meet with local officials to determine the most effective and efficient communication system to implement during an emergency. Furthermore, the Department directs the Company that such a determination must be mutually acceptable to both the Company and the local officials, not just a unilateral decision by the Company.

E. Coordination of Response with NYNEX

WMECo and NYNEX rely on each other's poles. The Company explained that communication of problems about NYNEX-owned poles are made to NYNEX via WMECo's Regional Operations Center (Exh. DPU 2-5). Following the Storm, NYNEX and WMECo considered the situation to be a "storm emergency," and there was storm-related communication between the two companies regarding pole setting needs (Exhs. DPU 1-32, 3-7). WMECo indicated that, there were serious problems with setting telephone poles in towns where the telephone company was responsible for poles because the telephone company was slow responding at the beginning of the storm and later because telephone bargaining unit crews would not work with electric crews at job sites with picketers (Exh. DPU 2-42, at 5).

The record indicates that there was a delay in the repair of broken poles in the Town of Deerfield due to a communication failure between WMECo and its outside line crews (Amherst Tr. at 72-73). The reported twelve-day delay in setting a pole by NYNEX also demonstrates a lack of communication following the Storm between NYNEX and WMECo. The record further indicates that the Company has a "Storm Emergency Coordination Procedure" with NYNEX that is implemented when both companies declare a storm emergency (Exh. DPU 1-32). The Department finds that the Company's "Storm Emergency Coordination Procedure" was not fully implemented. Had it been fully implemented, there would have been closer communication between the Company and NYNEX during the Storm, and restoration activities would have been quicker. The Department reviewed the Greenfield District Emergency Plan, and the WMECo Regional Emergency Plan which, among others, are applicable to the town of Deerfield (Exhs.

DPU 2-1). We also reviewed the RBG System Emergency Plan (Exhs. DPU 1-1). The Department finds that WMECo's emergency plans incorporate no procedures for communicating with NYNEX. Therefore, the Department directs the Company to update its WMECo Regional Emergency Plan and its RBG System Emergency Plan to indicate how the Company communicates problems and status reports on jointly owned poles to NYNEX. In addition, the Department directs the Company to review its communications with NYNEX in the implementation of the "Storm Emergency Coordination Procedure" and clarify specifically with NYNEX the point of full implementation of the "Storm Emergency Coordination Procedure."

F. Prioritization and Coordination of Response with Local Towns

1. Description

The towns of Southampton, Colrain, and Otis filed letters with the Department addressing inadequacies of the Company's response to the Storm. In addition, four State Representatives (Representatives Hodgkins, Kelly, Kulik, and Nagle), who represent the majority of the Company's customers, also submitted letters of complaint to the Department. In Representative Hodgkins' testimony at the public hearings, he focused attention on the dilemma of municipal officials who were unable to get any kind of response from the Company when they called to WMECo's attention the threats to public safety caused by the downed live wires in their communities (Pittsfield Tr. at 21).

The Selectmen for the Town of Colrain ("Colrain") sent a letter to WMECo questioning WMECo's response to the Storm (July 25, 1995 Colrain letter to WMECo). One of Colrain's concerns was WMECo's priorities for restoring power (id.). Colrain pointed out that the home of

a resident who uses an iron lung was without power for 55 hours (id.). Colrain also expressed concern that the Town opened its emergency control center on July 15, but received no call from WMECo as to what the Town's needs would be. Colrain questioned WMECo's prioritization of a private home over an identified medical emergency (id.). The Selectmen of Southampton expressed concern over the lack of a timely response from WMECo as well as the Company's lack of coordination with local public safety officials (Southampton Letter of July 19, 1995). At the August 2 hearing, the Town of Southampton submitted a listing of expenses incurred for the Storm, which includes \$875.60 for its Fire Department and \$500 for its Police Department. The Southampton Fire Chief and Selectman basically argue that their Town should be reimbursed by WMECo for these expenses because of the Company's failure to provide a reasonable restoration of electric service (Amherst Tr. at 29-36). The Selectmen of Otis strongly protest the lack of timely response to the downed wires there that threatened the safety of community's inhabitants and emergency workers. Otis experienced a fatality on July 15, evidently caused by a downed wire.

Representative Hodgkins, Mr. Goerlach, and Mr. Darocha provided letters describing an incident in the Town of Lanesboro on July 15 regarding the Company's failure to coordinate reenergizing activities with town workers clearing a fallen tree. According to Representative Hodgkins, individual towns incurred additional expenses to maintain protection at the sites of downed wires for the additional amount of time caused by WMECo's inadequate response to storm damage (Otis Tr. at 22).

From individual complaints voiced by customers and municipal officials, the Company's service restorations did not appear to follow any discernable pattern of prioritization other than attempting to restore service to as many customers as quickly as possible. Customers in sparsely populated areas and those at the extreme ends of the Company's distribution system were the last to be restored (Otis Tr. at 9). Too many trouble spots -- 121 transformers replacements (Exh. DPU 2-46), 64 broken poles (Exh. DPU 2-45), 758 reports of wires down (Exh. DPU 3-1) -- with too few line crews to respond to those trouble spots made a rapid response to all priority customers an impossibility.

However, when the death from a live downed wire was reported in Otis, the Company's reported response was that three crews were working in Pittsfield and it would try to release a crew to Otis but assistance might not be available for as long as twenty-four hours.

2. Analysis and Findings

In the aftermath of the Storm, municipalities found themselves in positions similar to the individual residential and commercial customers. Because of delay in restoring electric service, municipalities faced additional expenses for responding to the emergency conditions without the usual assistance of the electric company. They also had to contend with the results of a lack of normal electrical service over a protracted period. The Lanesboro incident adds to the Department's concern over the lack of coordination of the Company's entire restoration activity following the Storm. The complaints of customers and municipal officials point to a failure by WMECo to work with the municipalities in its service territory in order to address the safety and

convenience of the public; undoubtedly this was due to the lack of Company personnel available during the Storm which left it overwhelmed and disorganized.

While WMECo's RBG System Emergency Plan provides for a pre-assigned company representative to be stationed in each town that has storm damage to act as an information liaison during restoration activities, the Department finds no evidence that WMECo implemented this portion of its Plan (Exh. DPU 2-33). Again, this was undoubtedly due to the lack of Company personnel available during the Storm.

Based on the totality of testimony and complaints received in this proceeding, the Department finds that WMECo failed to make a sufficient effort to coordinate its restoration activities with local officials and failed to recognize its prioritization of harmful or life-threatening situations. Therefore, the Department directs the Company to reevaluate its method of prioritizing harmful or life-threatening situations and its coordination methods with local officials.

This and other examples in this record lead the Department to believe that WMECo did not follow its previously established prioritization for the restoration of electric service. The Department finds that the Company failed to follow its stated prioritization that emergency calls regarding harmful or life-threatening situations are given highest priority and that locations where wires are down are given higher priority than restoration of service.

G. Conclusions Regarding the Company's Implementation of its Emergency Plan

The following is a summary of the Department's findings and directives with respect to the WMECo's implementation of its Emergency Plan:

- (1) The Department finds that WMECo failed to take reasonable steps to make available sufficient staff to respond to the Storm in an efficient and effective manner, and thus failed

to meet its public service obligation. The Department further finds that this deficiency exposes and underlying deficiency in the Company's Emergency Plan: WMECo failed to have in place a plan to address the need for additional line crews during a storm emergency during a strike.

(2) The Department finds that WMECo's decision to reject its union-represented employees' offer to call a moratorium from the ongoing strike in order to assist in the storm restoration caused its customers to be without electric service for a longer period of time than if WMECo had accepted the union's offer. Whether the Company's decision to reject the union's offer was justified, the Company was responsible for ensuring adequate staffing to restore service to its customers within a reasonable period of time under circumstances beyond its control. The Department directs the Company to review and modify its Emergency Plan with regard to the number of line crews and support staff available to respond to a major storm, especially during a union work stoppage, by developing guidelines for addressing such a contingency.

(3) The Department finds that WMECo restricted its access to outside assistance by not accepting its unionized employees' offer to return to work for the period of storm restoration.

(4) The Department finds that neither the Company's RBG System Emergency Plan nor the WMECo Regional Emergency Plan applies those requirements to substitute management line crews in the circumstance of a work stoppage. The Department finds that the requirements regularly imposed on SWATs need to apply to the Company's substitute management personnel, as part of the Emergency Plan. The Department directs the Company to take steps to ensure that those who perform restorations during storm emergencies adhere to all relevant safety standards.

(5) The Department finds that there were significant problems associated with the delivery of some key distribution system components to the sites where they were needed. The Department directs the Company to (1) ensure that in preparation of storm emergencies, it adequately prepares its distribution line repair vehicles' materials and fuel, (2) ensure that in preparation of storm emergencies, its line repair vehicles are in proper operable condition, (3) ensure that in preparation of storm emergencies, it has patrol maps available in relation to the affected areas of the Company's service territory, and (4) ensure that the Emergency Plan contains procedures that will facilitate communications regarding the need for, and delivery of, field materials and system components essential to storm repairs.

(6) The Department finds that the Company failed to promptly and efficiently assess the condition of its damaged distribution system. The Department directs WMECo to review its damage assessment procedures. The Company should give particular attention to

assessing the feasibility of developing a computerized surveillance system that would monitor the status of its transmission and distribution system directly and identify trouble spots without relying primarily on customer phone calls or patrols. The Department also directs WMECo to review its process for receiving emergency calls from police and fire departments, as well as calls from its customers. The Company is further directed to evaluate both dedicating telephone lines for use by police and fire departments and the manner in which the Company handles calls received from police and fire departments. The Company is directed to amend the Emergency Plan to ensure that customers are provided local telephone numbers for notifying the Company of problems.

(7) The Department finds that the Company failed to provide accurate information and adequate communication with its customers, and thus failed to respond to these Department concerns. The Department finds that the Company did not have adequate personnel to provide accurate restoration information to the public. The Department reiterates its prior directive that the Company must meet with local officials to determine the most effective and efficient communication system to implement during an emergency; furthermore, the Department directs the Company that such a determination must be mutually acceptable to both the Company and the local officials, not just a unilateral decision by the Company.

(8) The Department finds that the Company's "Storm Emergency Coordination Procedure" was not fully implemented. The Department finds that WMECo's emergency plans incorporate no procedures for communicating with NYNEX. Therefore, the Department directs the Company to update its WMECo Regional Emergency Plan and its RBG System Emergency Plan to indicate how the Company communicates problems and status reports on jointly owned poles to NYNEX. In addition, the Department directs the Company to review its communications with NYNEX in the implementation of the "Storm Emergency Coordination Procedure" and clarify specifically with NYNEX the point of full implementation of the "Storm Emergency Coordination Procedure."

(9) The Department finds that WMECo failed to make a sufficient effort to coordinate its restoration activities with local officials and failed to recognize its prioritization of harmful or life-threatening situations. Therefore, the Department directs the Company to reevaluate its method of prioritizing harmful or life-threatening situations and its coordination methods with local officials.

(10) The Department finds that the Company failed to follow its stated prioritization that emergency calls regarding harmful or life-threatening situations are given highest priority and that locations where wires are down are given higher priority than restoration of service.

IV. PROPOSED RELOCATION OF CUSTOMER SERVICE CENTER

The Department is aware that the Company intends to close its only customer service center in the Springfield office to walk-in traffic, and to eliminate its remaining telephone answering center now operating in Massachusetts. WMECO has already begun to relocate customer service staff to its offices in the state of Connecticut. The Department notes that WMECO's telephone center in West Springfield, scheduled for removal early in 1995, has remained open only because WMECO discovered that the consolidated telephone center in Connecticut was unable to handle the flood of calls coming from Massachusetts residents in the aftermath of a winter storm. WMECO delayed the original move until it was reassured that its telephone equipment would function well in emergency situations, and is now planning to move the telephone center in the first quarter of 1996.

The Department's investigation in this proceeding has served to highlight the importance to customers of a utility having a local presence in the communities which it serves. There is always value in such proximity where day-to-day operations are concerned, especially regarding the Company's ability to follow Massachusetts law and Department regulations when dealing with residential customers, and value increases exponentially when weather conditions impede the ability of the Company to deliver service. This investigation has made it clear that emergency response and safety issues are paramount. Local customer service centers can serve as "command posts" that customers may contact with information regarding outages and safety matters, and from which critical information regarding a company's response to emergency situations can be disseminated.

This investigation has also revealed that, in emergency situations, it is absolutely necessary for Company staff who deal with customers to be familiar with the territory they serve: important local sites, unique geographical characteristics, key public officials, the distances between communities and the local access roads to be traveled. The company lacking such ability leaves its customers ultimately at risk. When the interface between a utility and its customers exists at a site beyond the utility franchised territory, the ability of the utility to serve its customers effectively is compromised. Employees cannot serve a territory if they do not know it first hand. Remote, out-of-state locations of personnel receiving and disseminating emergency information is, as events in July show, a recipe for confusion and jeopardizes customer service.

The Department finds that the Company's decision to close its customer service centers gives rise to a substantial public safety risk during storm emergencies. The Department further finds that such action would be inconsistent with the Company's continuing obligation to provide safe, reliable electric service to its customers. Therefore, the Department directs the Company to reconsider, by January 1, 1996, its decision to close to walk-in and telephone traffic its remaining customer service centers in Springfield and West Springfield and respond to the Department before implementing the proposed move.

V. QUALITY OF SERVICE PLAN

The Department finds that the Company's Emergency Plan does not include minimum quality of service standards (Exh. DPU 2-1). In Incentive Regulation, D.P.U. 94-158, at 65 (1995), the Department strongly encouraged utilities to file economic incentive regulation plans. The Department also has stated that comprehensive utility restructuring plans should include

broad based incentive programs. Electric Restructuring, D.P.U. 95-30 (1995). Of course, any incentive plan must have provisions to ensure a high quality of customer service in the future. NYNEX, D.P.U. 94-50, at 229-238 (1995). Therefore, the Department directs the Company to include the following in its new Quality of Service Plan: (1) standardized benchmarks for minimum service reliability and quality, including specific and measurable standards that apply to electric distribution system maintenance operations and overall system reliability; (2) immediate reporting to the Department of major and persistent service and safety problems; (3) regular reporting of service reliability; (4) maintenance of customer account information for at least four years to permit identification of chronic problem areas; and (5) reduction of the time customers must wait for Company personnel to answer telephone calls during emergencies and on a daily basis.

VI. REMEDIAL ACTION

A. Summary of Customer and Municipal Comments

Many customers complained of loss of personal property, mainly spoiled food (see, e.g., Anderson, Anglemen, Clayton, Feldman, Gile, Gonska, Kearn, Kimberly, Knowles, Lempke, Murray, Pachuloki, Potter, Queen, Rhoad, Riccio, Rider, Schoenrock, Shanklin, Silkey, Wilson, and Wolfram letters). Other customers have also claimed economic losses consisting of food, wages, and revenue (Angleman, Kimberly, Murray, Rhoad, Riccio, and Thanos letters; see also Otis Tr. at 48). Other customers stated that their home owner's insurance would not cover this type of property damage (see, e.g., Potter and Shanklin letters).⁷ Some customers asserted that

⁷

Most home owner's insurance policies generally require electrical damage at
(continued...)

they could have, but did not take protective actions, because they received company assurances that their power would be restored soon; the company projections turned out to be too optimistic (Amherst Tr. at 70, 71; see also Angleman, Lempke, Potter, and Winter letters).

A Selectman from the Town of Southampton testified that Southampton spent \$1,948 for its highway, police and fire department to respond to the storm (Amherst Tr. at 31, 32). The Selectman stated that in a normal situation, the town would assume responsibility for such costs (id.). However, the Selectman stated that it appeared that the WMECo workers were not qualified to do the job (id.). As a result, he thought that the Company should reimburse the Town of Southampton for these expenses (id.).

Because of these claimed losses, some customers indicated that they would either (1) not pay the customer charge on their WMECo bill; (2) suspend payment of their WMECo bill; (3) deduct a specific dollar amount from their next WMECo bill; (4) or request reimbursement from WMECO (see, e.g., Angleman, Feldman, Minery, Murray, Nelson, Pachulski, Potter, Rhoad, and Riccio letters).

B. Analysis and Findings

Nothing precludes customers from asking the Company to reimburse them for damages as a gesture of good will. However, neither the regulatory system in Massachusetts nor the present record permits the Department to assess these claims. A complaint regarding the quality of electric service provided may be submitted to the Department for investigation, and, in effect, the

(...continued)

the home, such as a fuse box failure, before any resulting damage is covered by the policy (see, e.g., August 2, 1995 letter from National Grange Mutual Insurance Company to Jean Shanklin of Sandisfield, MA)."

Legislature's Order serves this purpose. However, the Department does not have jurisdiction to award money damages to customers and has consistently so held. See Band v. Massachusetts Electric Company, D.P.U. 87-AD-27 (1993); Abizaid v. Boston Gas Company, D.P.U. 1941 (1980); see also 220 C.M.R. §§ 25.00 et seq.

The customer's obligation to pay an electric bill is imposed by the tariff approved by the Department, which includes various rates and charges and specific terms and conditions. G.L. c. 164, § 94; Boston Edison Company, 390 Mass. at 777. The Department notes that Section 5.1 of the terms and conditions of the WMECo tariff contains a provision exempting WMECo from liability from interruption in service unless caused by WMECo's own "negligent acts or omissions." M.D.P.U. No. 876, approved in Western Massachusetts Electric Company, D.P.U. 91-290 (1992). The Department further notes that tariffed electric service is not a contract relationship, Boston Edison Company, 390 Mass. 772, 777 (1984), and claims sounding in tort (e.g., "negligent acts or omissions" within the meaning of the Company's tariff, M.D.P.U. No. 876) lie within the jurisdiction of the courts, not the Department.⁸

In prior storm investigations, as here, the Department has identified numerous deficiencies in the Company's emergency response planning and implementation of its plans and directed the

⁸ In construing a similar tariff provision, the Supreme Judicial Court has ruled a customer may not "absent physical damage" collect from an electric company purely "economic" damages, such as the loss of business from an outage. FMR Corporation v. Boston Edison Company, 415 Mass. 393, 396 (1993).

company to correct those deficiencies. The Department expects that WMECo will comply⁹ by January 1, 1996, with the following directives in this Order:

- (1) amend its Emergency Plan to provide for the inclusion of local officials and emergency response personnel in both its emergency training and its emergency plan reviews in the future;
- (2) amend its Emergency Plan to include how, during both a storm and work force strike, line crews from other companies are secured and management personnel are selected, trained, and assigned to perform physical line restoration activities;
- (3) update the WMECo district and regional emergency plans' lists of NUSCO personnel assigned to emergency duties by January 1, 1996;
- (4) review its maintenance program for line trucks and its practice for stocking rented line trucks with the necessary equipment and material so that as many line trucks as possible can be available to respond to unanticipated emergencies; the Company should pay particular attention to developing a system by which it can regularly verify and report to upper management that line trucks are, in fact, being kept in good repair and properly stocked;
- (5) update its Emergency Plan and submit the updated Emergency Plan to the Department by January 1, 1996;
- (6) provide a copy of the annual update to its Emergency Plan to the Department by first of September each year;
- (7) ensure that officials in each municipality are contacted regarding the Emergency Plan and to solicit comments and suggestions from MEMA in the evaluation of the Emergency Plan;
- (8) conduct annual storm simulations involving each of its regional and district "Major Emergency Restoration Information Teams";
- (9) meet annually with the local officials in each municipality within its service territory to develop a mutually acceptable ranking of pre-determined priorities for restoration of electric service within the context of the Company's entire distribution system, and report

⁹ The Department has various methods for ensuring Company compliance with these Order under G.L. c. 164, if necessary, including as a last resort referral to the Attorney General under § 78.

the dates of each meeting in the annual updates due to the Department on September 1 of each year;

(10) re-examine the Company's restoration priorities with special attention to achieving a reasonable balance between the restoration of customers in urban and rural settings;

(11) review and modify its Emergency Plan with regard to the number of line crews and support staff available to respond to a major storm, especially during a union work stoppage, by developing guidelines for addressing such a contingency.

(12) take steps to ensure that those who perform restorations during storm emergencies adhere to all relevant safety standards.

(13) to (a) ensure that in preparation of storm emergencies, it adequately prepares its distribution line repair vehicles' materials and fuel, (b) ensure that in preparation of storm emergencies, its line repair vehicles are in proper operable condition, (c) ensure that in preparation of storm emergencies, it has patrol maps available in relation to the affected areas of the Company's service territory, and (d) ensure that the Emergency Plan contains procedures that will facilitate communications regarding the need for, and delivery of, field materials and system components essential to storm repairs.

(14) review its damage assessment procedures and give particular attention to assessing the feasibility of developing a computerized surveillance system that would monitor the status of its transmission and distribution system directly and identify trouble spots without relying primarily on customer phone calls or patrols;

(15) review its process for receiving emergency calls from police and fire departments, as well as calls from its customers;

(16) evaluate both dedicating telephone lines for use by police and fire departments and the manner in which the Company handles calls received from police and fire departments;

(17) amend the Emergency Plan to ensure that customers are provided local telephone numbers for notifying the Company of problems;

(18) update its Emergency Plan to indicate how the Company communicates problems and the status reports on jointly owned poles to NYNEX;

(19) review its communications with NYNEX in the implementation of the "Storm Emergency Coordination Procedure" and clarify specifically with NYNEX the point of full implementation of the "Storm Emergency Coordination Procedure";

(20) reevaluate its method of prioritizing harmful or life-threatening situations and its coordination methods with local officials.

(21) reconsider, by January 1, 1996, its decision to close to walk-in and telephone traffic its remaining customer service centers in Springfield and West Springfield and respond to the Department before implementing the proposed move.

VII. ORDER

Accordingly, after due notice, hearing, and consideration, it is

ORDERED: that Western Massachusetts Electric Company shall comply with all directives and recommendations contained herein.

By Order of the Department,

Mary Clark Webster, Commissioner

Janet Gail Besser, Commissioner